

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MT. HAWLEY INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-14-54-M
)	
NANTUCKET HOMEOWNERS)	
ASSOCIATION, LLC,)	
)	
Defendant.)	

ORDER

Before the Court is defendant's Motion to Dismiss, filed February 13, 2014. On March 6, 2014, plaintiff filed its response. Defendant has filed no reply. Based upon the parties' submissions, the Court makes its determination.

Defendant moves this Court to dismiss this action for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) and for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendant asserts that plaintiff lacks jurisdiction to bring the instant action because plaintiff has not complied with the requirements for removal. The instant action, however, was not removed to this Court. While there may be a related action in state court, the instant action originated in this Court. Because this case was not removed from state court to this Court, and because this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), as set forth in plaintiff's Complaint for Declaratory Judgment, the Court finds no basis to dismiss this action for lack of subject matter jurisdiction.

Defendant also asserts that the instant action should be dismissed for failure to state a claim based upon plaintiff's failure to exhaust state court remedies. Defendant, however, fails to identify what state court remedies plaintiff has allegedly failed to exhaust. Defendant further asserts that the

instant action should be dismissed based upon the action that is already pending in state court. Having carefully reviewed the parties' submissions, the Court finds that plaintiff has not failed to exhaust state court remedies. The Court further finds that the action currently pending in state court does not address the same issues involved in the instant action. Finally, having reviewed plaintiff's Complaint for Declaratory Judgment, the Court finds that plaintiff has not failed to state a claim.

Accordingly, the Court DENIES defendant's Motion to Dismiss [docket no. 9].

IT IS SO ORDERED this 2nd day of April, 2014.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE